

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
CLERK'S OFFICE

PEIERLS FOUNDATION INC. and  
E. JEFFREY PEIERLS, individually  
and as trustee

Plaintiffs,

V.

JAMES E. RURKA, MARK SKALETSKY,  
PAUL J. MELLETT, RICHARD ALDRICH,  
KATE BINGHAM,  
CHARLES W. NEWHALL III,  
DAVID SCHNELL, and JOHN P. WALKER

Defendants.

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U.S. DISTRICT COURT  
DISTRICT OF MASS.

Civil Action No. 03-12213 EFH

**JOINT MOTION FOR ORDER GRANTING MEDIATION AND REVISING  
SCHEDULE**

Plaintiffs E. Jeffrey Peierls, individually and as trustee, and the Peierls Foundation, Inc., and defendants Richard Aldrich, Kate Bingham, Paul J. Mellett, Charles W. Newhall, III, James E. Rurka, David Schnell, Mark Skaletsky, and John P. Walker, through their counsel, jointly move for entry of an order directing mediation and revising the schedule in this matter. In support of this motion, the parties state:

1. Based on communications between counsel, they believe that a mediation process with Kyle Lefkoff, a business person, may be productive. Mr. Lefkoff of Boulder Ventures Limited has agreed to serve as a mediator.

2. The parties contemplate that during the mediation period, which period shall commence upon entry of the proposed order and expire on March 4, 2005, depositions would be held in abeyance, but that paper discovery, including obtaining documents, would continue. This would allow the parties to avoid the potentially substantial expense of the deposition process in the event the mediation is successful. It, however, would allow the

parties to be in a position to conduct depositions promptly if the mediation process fails.

3. To this end, the parties have entered the attached ADR Agreement that establishes the framework for the mediation. Pursuant to L.R. 16.4, the parties ask that the Court enter an order in the form attached directing this matter to mediation in accordance with the that agreement. The proposed order provides that communications associated with the mediation process will be treated as settlement communications subject to FRE 408 and that the communications will be confidential and not subject to discovery in this or in any other proceedings involving the parties or a third-party.

4. Pursuant to L.R. 16.1(G), the parties also propose that to allow the opportunity for the mediation process to occur without the parties incurring potentially unnecessary legal expenses, that the schedule in this matter be revised. This is the parties' first request for an extension of time. The parties' request that the schedule be revised as follows:

Fact Discovery Completed:	June 1, 2005
Discovery Motions	June 1, 2005
Plaintiff's Expert Reports and 26(a)(2) Disclosure	July 29, 2005
Defendants' Expert Reports and 26(a)(2) Disclosure	October 2, 2005
Plaintiff's Rebuttal Expert Report	October 24, 2005
Expert Depositions completed	December 24, 2005
Motions Relating to Expert Discovery	December 24, 2005
Dispositive Motions Filed	January 24, 2006
Oppositions to Dispositive Motions	February 24, 2006
26(a)(3) Disclosures	March 17, 2006
Final Pretrial Conference	March 23, 2006

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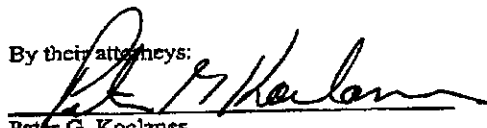
The proposed order reflects the requested revised schedule.

Accordingly, the parties jointly request that the Court direct this matter to mediation and revise the schedule in this matter by entry of the proposed order.

**PLAINTIFFS**

**PETERLS FOUNDATION, INC., AND  
E. JEFFREY PEIRLS, INDIVIDUALLY  
AND AS TRUSTEE,**

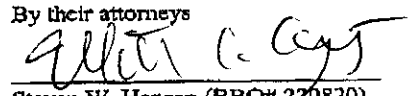
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**DEFENDANTS,**

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